Item No. 1008-D

X 96-2: H.R.P. 1398

96TH CONGRESS, 2d Session } HOUSE OF REPRESENTATIVES { REPORT No. 96-1398

NATIONAL SKI PATROL SYSTEM, INC.

SEPTEMBER 25, 1980.—Referred to the House Calendar and ordered to be printed

Mr. DANIELSON, from the Committee on the Judiciary, submitted the following

COMPLETED ORIGINAL

REPORT

[To accompany H.R. 2279]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary to whom was referred the bill (H.R. 2279) to promote safety and health in skiing and other outdoor winter recreational activities, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert:

That:

CHARTER

SEC. 1. National Ski Patrol System, Incorporated, a corporation organized under the laws of the States of New York and Colorado is hereby recognized as such and granted a federal charter.

POWERS

SEC. 2. National Ski Patrol System, Incorporated (hereinafter referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the states where it is incorporated.

OBJECTS AND PURPOSES OF CORPORATION

SEC. 3. The purposes of the corporation shall be to promote, in any and all ways, patriotic, scientific, educational and civic improvement activities, public safety in skiing, including, without limiting the generality of the foregoing, the dissemination of information with respect thereto and the formation of volunteer local patrols, consisting of competent skiers trained in the administration of first aid, for the purpose of preventing accidents and rendering speedy assistance to persons sustaining accidents; to solicit contributions of money, services, and other property for, and generally to encourage and assist in carrying out, the foregoing purposes in every way.

SERVICE OF PROCESS

SEC. 4. With respect to service of process, the corporation shall comply with the laws of the states in which it is incorporated and those states in which it carries on its activities in furtherance of its corporate purposes.

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MEMBERSHIP

SEC. 5. Eligibility for membership in the corporation and the rights and privileges of members shall, except as provided in this Act, be as provided in the bylaws of the corporation.

BOARD OF DIRECTORS: COMPOSITION: RESPONSIBILITIES

SEC. 6. The board of directors of the corporation and the responsibilities thereof shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the state or states where incorporated.

OFFICERS OF CORPORATION

SEC. 7. The officers of the corporation and the election of such officers shall be the same as is provided for in the articles of incorporation of the corporation and in conformity with the laws of the state or states where incorporated.

RESTRICTIONS

SEC. 8. (a) No part of the income or assets of the corporation shall inure to any member, officer, or director of the corporation or be distributed to any such person during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) The corporation shall not make any loan to any officer, director, or employee of the corporation.

(c) The corporation and any officer and director of the corporation, acting as such officer or director, shall not contribute to, support or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

LIABILITY

SEC. 9. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

BOOKS AND RECORDS: INSPECTION

SEC. 10. The corporation shall keep correct and complete books and records of account and shall keep minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep at its principal office a records of the names and addresses of all members having the right to vote. All books and records of such corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time. However, nothing in this section shall be construed to contravene any applicable state law.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 11. The first section of the act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(51) National Ski Patrol System, Incorporated".

ANNUAL REPORT

SEC. 12. The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding calendar year. The report shall not be printed as a public document.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

SEC. 13. The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

DEFINITION OF "STATE"

SEC. 14. For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico and the territories and possessions of the United States.

TAX EXEMPT STATUS

SEC. 15. The corporation shall retain its status as an organization exempt from taxation as provided in the Internal Revenue Code. If the corporation fails to retain such status, the charter granted hereby shall expire.

PURPOSE

The purpose of the proposed bill, as amended, is to grant a federal charter to the National Ski Patrol System, Incorporated.

STATEMENT

This bill as amended, proposes to grant a federal charter to the National Ski Patrol System, Inc. (NSPS) which was founded in 1938. This organization provides experts to aid skiers at major ski areas throughout the country. These members of NSPS are trained in first aid and rescue techniques, and there is no charge for any of the services provided. The NSPS has its headquarters in Denver, Colorado, and it functions in cooperation with the U.S. Forest Service, the American Red Cross, the U.S. Department of Transportation and with local law enforcement.

NSPS is a nonprofit, volunteer organization dedicated to skiing safety. It was incorporated in the State of New York in 1948 and in the State of Colorado in 1953. This organization has grown so that it now has more than 24,000 members throughout the United States and in several foreign countries. NSPS volunteers provide rescue and first aid services, snow safety training, avalanche control, and other assistance at many areas. Their activities contribute to the long-term stability of winter safety programs at ski areas throughout the country.

The NSPS has provided invaluable assistance to the Federal government in developing avalanche forecasting and control methods, and in training for avalanche control and rescue. As a complementary effort to the National Avalanche School that trains trainers, the NSPS sponsors a basic and advanced avalanche course annually. The basic course provides training in the recognition of avalanche hazards and basic rescue techniques. The recipients of this training are better able to participate safely in winter sports such as crosscountry skiing. They can also offer their services in organized rescue of persons missing or caught in avalanches. The advanced avalanche course, utilizes more advanced research and technology and trains NSPS members in methods of forecasting and control of avalanches and in leadership of rescue operations.

In 1977, the Subcommittee on Administrative Law and Governmental Relations established a set of standards to be applied when considering the granting of federal charters. These standards were designed to provide consistent and stringent criteria for granting federal charters. It was felt that these criteria would assist the Committee to ensure that these charters would be granted only on a very selective basis and only to organizations clearly warranting federal recognition. These criteria

include requirements that the organization maintain its State charter, or that the organization operate in a nondiscriminatory fashion; that the organization operate only in a charitable, patriotic, literary or other similar purpose; that it maintain its tax exempt status; and that its activities are national in scope. The committee has determined that NSPS meets these requirements, and the evidence produced during the hearing on this bill before the Subcommittee on Administrative Law and Governmental Relations supports the committee's favorable recommendation.

Further, the committee amendment ensures that this bill will not contravene state law, but merely supplements it. Thus, NSPS will have to comply with the laws of the States where it is incorporated and the States where it does business. However, the committee is aware that some state requirements are waived for federally chartered organizations. If this bill is enacted into law, each relevant State may then determine whether NSPS qualifies for such a waiver.

For these reasons the committee recommends that H.R. 2279, as amended, be considered favorably.

STATEMENT UNDER CLAUSE 2(l)(2)(B), CLAUSE 2(l)(3) AND CLAUSE 2(l)(4) OF RULE XI AND CLAUSE 7(a)(1) OF RULE XIII OF THE HOUSE OF REPRESENTATIVES

COMMITTEE VOTE

(Rule XI 2(l)(2)(B))

On September 18, 1980, the full Committee on the Judiciary approved the bill, H.R. 154 by voice vote.

COST

(Rule XIII (7)(a)(1))

The bill merely provides for the incorporation of a private non profit corporation, and its enactment would result in no added cost to the Government other than to examine the annual audit required by applicable law.

OVERSIGHT STATEMENT

(Rule XI 2(l)(3)(A))

The Subcommittee on Administrative Law and Governmental Relations of this committee exercises the committee's oversight responsibility relating to the chartering of private non profit corporations in acordance with Rule VI(b) of the Rules of the Committee on the Judiciary. The favorable consideration of this bill was recommended by that subcommittee and the committee has determined that legislation should be enacted as set forth in this bill.

BUDGET STATEMENT

(Rule XI 2(l)(3)(B))

As has been indicated in the committee statement as to cost made pursuant to Rule XIII (7)(a)(1), the bill merely provides for the

incorporation of a private non profit corporation. This bill does not involve new budget authority nor does it require new or increased tax expenditures as contemplated by clause 2(l)(3)(B) of Rule XI.

ESTIMATE OF THE CONGRESSIONAL BUDGET OFFICE

(Rule XI 2(l)(3)(C))

INFLATIONARY IMPACT

(Rule XI 2(l)(3))

In compliance with clause 2(l)(4) of House Rule XI it is stated that this legislation will have no inflationary impact on prices and costs in the operation of the national economy.

[The following estimate was received from the Director of the Budget Office:]

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., September 24, 1980.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 2279, a bill to promote safety and health in skiing and other outdoor winter recreational activities, as ordered reported by the House Committee on the Judiciary, September 18, 1980.

The bill grants a federal charter to the National Ski Patrol System, Inc.

It is expected that no additional costs to the government will be incurred as a direct result of the enactment of this legislation.

Sincerely,

ROBERT D. REISCHAUER,
(For Alice M. Rivlin, Director).

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF LAND MANAGEMENT,
Butte, Mont., March 18, 1980.

Hon. PETER W. RODINO, Jr.,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN RODINO: In connection with HB 2279–NSPS Recognition Act of 1979, I want to inform you on the importance of the National Ski Patrol Systems activities in our management programs. We have two ski areas on BLM land in the Butte District. We depend on the Ski Patrol at each area to develop and carry out adequate safety plans for protection and aid to the skiing public. In our experience, patrols registered with NSPS can be counted on to do a very professional job at minimal cost.

We are also anticipating an increase in cross-country skiing on public lands. The NSPS has been very responsive to providing assistance in rescue and evacuation for these users of public land by forming Nordic Patrols.

In the event of emergency situations requiring search and rescue in winter sports activity on BLM lands, NSPS units are a valuable and low cost method for complying with the search and rescue provisions of Section 312 of the Federal Land Policy and Management Act of 1976. We also find that BLM employees who are members of NSPS are a valuable asset to BLM due to their proficiency in safety and first aid.

In summary, NSPS provides substantial services to winter sports users of public land at no cost. They provide valuable assistance to land management agencies in meeting requirements to enforce safety rules and render emergency aid.

Sincerely yours,

JACK A. MCINTOSH,
District Manager.

DEPARTMENT OF THE ARMY,
Washington, D.C., July 21, 1980.

Hon. PETER RODINO,
Chairman, Committee on Judiciary,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request to the Secretary of Defense for the views of the Department of Defense on S. 43, 96th Congress, an Act "To promote safety and health in skiing and other outdoor winter recreational activities." The Department of the Army has been assigned responsibility for expressing the views of the Department of Defense on this bill.

The purpose of the bill is to promote safety and health in skiing and other outdoor winter recreational activities, to create a corporation known as the National Ski Patrol System, Incorporated, and provide a statutory charter therefor.

The National Ski Patrol Organization in the past has informally promoted safety and health at ski areas and other outdoor recreational areas. Although the bill does not impact directly on the Department of Defense mission, it may be of benefit to the Department of Defense by providing for an official organization to monitor and promote the safety and health aspects of skiing and other winter recreational activities in which off-duty military and DOD civilian personnel may participate.

The Department of the Army on behalf of the Department of Defense defers to the Congress on the desirability and appropriateness of this legislation.

The enactment of this bill will cause no apparent increase in budgetary requirements for the Department of Defense.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Sincerely,

WILLIAM E. PEACOCK,
Assistant Secretary of the Army
(Manpower and Reserve Affairs).

U.S. DEPARTMENT OF JUSTICE,
ASSISTANT ATTORNEY GENERAL,
LEGISLATIVE AFFAIRS,
Washington, D.C., May 21, 1980.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your letter of February 12, 1980, in which you inquire about the effect of federal incorporation of non-profit corporations. We understand from conversations with William P. Shattuck, Counsel to the Subcommittee on Administrative Law and Governmental Relations, that the Committee is particularly interested in the question whether federal incorporation supersedes the requirement to comply with State registration and reporting laws. As indicated on pp. 5–9 of the hearings attached to your February 12 letter, the answer depends largely on the Congressional intent. We believe that S. Rept. No. 411, 96th Cong., 1st Sess. (1979), permits an inference that Congress intended to exempt the National Ski Patrol System from registration and similar state laws. Whether such inference would be persuasive on this point should litigation arise is a question on which we express no opinion. The inference, however, could be overcome by an express provision in the Act that the corporation shall be subject to the registration and reporting laws of the States in which it operates or has subordinate divisions or chapters. Precedents for such a provision would be, *e.g.* 36 U.S.C. §§ 90j, 237, 287, 517, 677, which require some federally chartered corporations to appoint agents authorized to receive service in the states in which they operate or have branches.

Sincerely,

ALAN A. PARKER,
Assistant Attorney General.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., March 6, 1980.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Here, as requested, is our report on S. 43, a bill "To promote safety and health in skiing and other outdoor winter recreational activities."

S. 43, the "National Ski Patrol System Recognition Act of 1979", would create the "National Ski Patrol System, Incorporated" as a private corporation under Federal law. The bill would also establish and set forth various purposes, powers, limitations, and requirements under which the corporation would operate. It was passed by the Senate with two technical amendments to ensure congressional oversight of the activities of the patrol.

The National Ski Patrol System (NSPS) is a nonprofit, volunteer organization dedicated to skiing safety. It was incorporated in the State of New York in 1948 and in Colorado in 1953. The organization

has grown so that it now has more than 24,000 members throughout the United States and in several foreign countries. NSPS has a long-standing record of assistance to the Forest Service, ski area operators, law enforcement officials, medical personnel, and the general public at National Forest ski areas. NSPS volunteers provide rescue and first aid services, snow safety training, avalanche control, and other assistance at many areas. Their activities contribute to the long-term stability of winter safety programs at ski areas where many employees change seasonally. We understand the NSPS provides similar services at ski areas administered by the Department of the Interior and at U.S. Armed Forces recreation areas overseas.

The NSPS has provided us invaluable assistance in developing avalanche forecasting and control methods, and in training for avalanche control and rescue. As a complementary effort to our National Avalanche School that trains trainers, they sponsor a basic and advanced avalanche course annually. The basic course provides training in the recognition of avalanche hazards and basic rescue techniques. The recipients of this training are better able to participate safely in winter sports such as cross-country skiing. They can also offer their services in organized rescue of persons missing or caught in avalanches. The advanced avalanche course, on the other hand, utilizes more of our advanced research and technology and trains NSPS members in methods of forecasting and control of avalanches and in leadership of rescue operations.

Ski area operators are responsible for controlling avalanches and other snow safety work at the individual ski areas. The Forest Service inspects these activities under the terms of the special use permit. The NSPS volunteers assist the ski area operator in performing these activities, thereby, reducing operating expenses and public costs.

Many States place registration and reporting requirements on out-of-State corporations, even if those corporations are nonprofit. It is our understanding that NSPS has neither the financial nor personnel resources to fully comply with these differing and complex State requirements. Enactment of S. 43 would exempt the NSPS from these requirements and thus help assure the continuation of an important national volunteer organization.

Regarding the desirability of granting a Federal charter to the National Ski Patrol, we note that Congress has granted 348 such charters over the years. By 1965, Congress had granted 339 of these charters, and this proliferation of federally-chartered corporations led the Congress and the Executive Branch to consider the need for criteria for the granting of these charters on a selective basis.

In 1969 a set of standards to be applied in the granting of Federal charters was jointly agreed on, after a study of this matter, by the Subcommittee on Federal Charters, Holidays and Celebrations of the Senate Committee on the Judiciary and Subcommittee Number 4 of the Committee on the Judiciary of the House of Representatives. These standards were intended to be applied to all legislation proposing Federal charters to achieve some uniformity of approach to such legislation. We understand that these standards were designed to provide consistent and stringent criteria for the granting of Federal charters so that they would be granted only on a very selective basis

and only to organizations clearly warranting Federal recognition. A study by the Congressional Research Service of the Library of Congress entitled, "Corporations Chartered by Act of Congress," dated January 5, 1973, provides extensive background information on this subject.

We believe that the standards promulgated by the Judiciary Subcommittees are appropriate and believe you will wish to consider applying them in the case of the National Ski Patrol. Whether the Patrol meets these standards is a question which we defer to the judgment of the Congress. We, likewise, defer to the Department of Justice as to the adequacy of the bill's incorporation provisions.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely,

BOB BERGLAND, *Secretary.*

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., December 12, 1979.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary,
U.S. House of Representatives

DEAR MR. CHAIRMAN: Thank you for your letter requesting comments on S. 43—"National Ski Patrol System Recognition Act of 1979".

We provided Senator Kennedy, as Chairman of the Committee on the Judiciary with comments on this legislation on September 24, 1979. (Copy of letter enclosed). Senator Kennedy's committee incorporated our comments in their committee reported version that subsequently passed the Senate.

Consequently, we have no further comments.

Sincerely yours,

PATRICK GARVEY,
Associate Legislative Advisor.

Enclosure.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., September 24, 1979.

B–195965.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on the Judiciary,
U.S. Senate

DEAR MR. CHAIRMAN: As requested in your letter of August 31, 1979, we have examined the proposed Senate Bill S. 43 entitled the "National Ski Patrol System Recognition Act of 1979." Following are our comments and suggestions.

1. On page 10, line 11 under Sec. 16 of the bill the number (49) should be changed to (50). This change is necessitated by the previous addition of the General Federation of Women's Clubs as 49, by Public Law 94–151, 48 Stat. 925 approved December 15, 1975. In all other respects, Sec. 16 assures adequate audit and financial reporting requirements.

2. Unless it is specifically intended that a separate report of proceedings and activities for the year be made to the Congress, we suggest that the first sentence in Sec. 19 on lines 2, 3 and 4 and the third sentence on lines 7 and 8 of the same section be deleted. Both of these provisions are currently covered in Sec. 3 of the act approved August 30, 1964 (36 U.S.C. 1103) which is incorporated by reference in Sec. 16 of this bill.

We believe the bill, with the changes recommended above, will prove adequate to ensure effective congressional oversight, with the General Accounting Office reviewing the annual audit report in accordance with procedures established on August 31, 1959 by the Committee on the Judiciary, House of Representatives (copy attached).

Sincerely yours,

R. F. KELLER,
Deputy Comptroller General of the United States.

Attachment.

ATTACHMENT I

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, D.C., August 19, 1959.

B–55712.

Hon. JOSEPH CAMPBELL,
Comptroller General of the United States, General Accounting Office, Washington, D.C.

DEAR MR. CAMPBELL: It has become customary to include in Federal charters a provision requiring the chartered organization to submit a financial report to the Congress each year. Many of these are referred to the Committee on the Judiciary. Unfortunately, we do not have a staff accountant to examine these reports. I feel that it is most important that these reports be examined by a skilled accountant. For that reason, I should appreciate it if the General Accounting Office would examine the enclosed reports which we have received since the beginning of this Congress and such others as are received subsequently.

I am particularly concerned with ascertaining whether these statements comply with the terms of the reporting requirement in the charters of the reporting organizations, and whether the statements meaningfully reflect the operations and financial status of these organizations.

Very truly yours,

EMANUEL CELLER, *Chairman.*

Enclosures.

ATTACHMENT II

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., August 31, 1959.

B–55712.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Your letter dated August 19, 1959, transmitting reports on the audit of the following federally chartered organizations, is acknowledged.

American Chemical Society.
Army and Navy Legion of Valor of the United States of America, Inc.
Board for Fundamental Education.
Boy's Clubs of America.
Civil Air Patrol.
Congressional Medal of Honor Society of the United States of America.
Future Farmers of America.
Marine Corps League.
National Fund for Medical Education.
National Music Council.
National Safety Council.
Reserve Officers Association.
Sons of Union Veterans of the Civil War.
The American National Theatre and Academy.
The American Society of International Law.
United States Olympic Association, Inc.
Veterans of World War I of the U.S.A., Inc.

We will be pleased to examine these reports and such others as are subsequently referred to us. As agreed with Mr. Murray Drabkin of the committee staff, the reports will be reviewed as our workload permits and we will submit to you our comments and observations as each report is reviewed. We believe this procedure will enable you to keep informed of our progress on these reviews.

We are happy to be of service to the committee on this matter.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

MEMORANDUM

From: Sue.
To: GED-FYI
Re: Ballenger, Harold, 3452 Centinela, Los Angeles, CA
Date: September 11, 1980.

Mr. Ballenger is a member of the U.S. Submarine Veterans of WWII. He phoned the district office regarding a federal charter for the organization. He said that their representative in DC spoke with GED who indicated that a greater show of public interest is necessary before the matter is brought out of committee. Mr. Ballenger would like to bring in a delegation of members for an office visit.

September 11, 1980.—Mr. Ballenger phoned again. He feels that GED is being unfair by not accepting the organization's show of interest. He said he knows of 5,000 letters that have been sent to Senators and Representatives nationwide. He is past president of Submarine Veterans 3-times, and a member of VFW and American Legion. He mentioned that GED's voting record with these organizations is only 36 percent and that the membership will be very disappointed if this legislation is not allowed to get out of committee.

September 13, 1980.—Received 10 mailgrams (five in the district) in favor of Federal charter for Submarine Veterans.

LOS ANGELES, CALIF., *September 12, 1980.*

Congressman GEORGE E. DANIELSON,
8873 Valley Blvd.,
Rosemead, Calif.

As one of your voting Californian supporters I ask for your support on bill S2623 the Federal charter for U.S. Submarine Veterans World War II. Please bring this bill out of your committee and get it approved, love for our country.

GRACE NOBLES.
President, Wives Auxiliary,
Long Beach, Calif.

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